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10/798,936	03/11/2004	Kenneth A. Chupa	AUS920031075US1	6909
7590 Barry S. Newberger P.O. Box 50784 Dallas, TX 75201				
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EXAMINER				
LEE, MARINA				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/798,936

**Applicant(s)**

CHUPA ET AL.

**Examiner**

MARINA LEE

**Art Unit**

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In view of the appeal filed on September 16, 2008, PROSECUTION IS HEREBY REOPENED. New grounds of Rejections are set forth below.

Claims 8-10 were previously cancelled.

Accordingly, Claims 1-7 are present for examination.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1,

Lines (6-7), recite the limitation "tagging said first deployable software component". There is insufficient antecedent basis for this limitation in the claim since it is unclear of what (e.g. *deployable software component identified in a first descriptor file or in a second descriptor file*) being tagged for "said *first* deployable software component";

Lines (8-9), recite the limitation "tagging said second deployable software component". There is insufficient antecedent basis for this limitation in the claim since it is unclear of what (e.g. *deployable software component identified in a first descriptor file or in a second descriptor file*) being tagged for "said *second* deployable software component".

As of the forging discussion above; therefore, appropriate corrections are required.

For, expedited the process of application prosecution, Examiner treats "tagging an *unmatched* deployable software component during miscomparing step between the deployable software component identified in a first and in a second descriptor file".

Claims 2-7 are also rejected to for not meeting the rejection of the base claim 1. Therefore, they are also rejected for the same reason.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garms et al. (US 7,296,255 B2 of record – hereinafter Grams) in view of Spring et al. (US 6,971,093 B1 made of record – hereinafter Spring).

**As to claim 1**, Garms discloses a method for selectively deploying enterprises software comprising:

for each deployable software component in a preselected input file (e.g., a *deployable module of a construct modules list (preselected input file)* – See at least col. 4: 63-67 with emphasis added), comparing the deployable software component identified in a first descriptor file in said input archive file and a second descriptor in a preselected output file (e.g., a deployable module of application's deployment descriptors (output file) – see at least col. 5: 1-4 with emphasis added) – (e.g., *each deployable module of the construct module list (input file) is being compared with each deployable module of the application deployment descriptor (output file)* – See at least 5: 1-12 with emphasis added); if the comparing step miscompares for a first deployable software component, tagging said first deployable software component;

if the comparing step miscompares for a first deployable software component, tagging said first deployable software component (*e.g., each deployable module of the construct module list (input file) was not found in the application deployment descriptor (output file), add (tag) each module in the modules to deploy list to the application deployment descriptors – See at least 5: 1-12 with emphasis added*); and

if the comparing step miscompares for a second deployable software component, tagging said second deployable software component (*e.g., each deployable module of the construct module list (input file) was not found in the application deployment descriptor (output file), add (tag) each module in the modules to deploy list to the application deployment descriptors – See at least 5: 1-12 with emphasis added*); and

deploying each tagged deployable software component -- *see at least col. 6: 8-9 and step 232 (fig. 2c).*

It is noted that Garms does not explicitly disclose that (*e.g., the construct modules list*) and (*the application deployment descriptor*) are stored as a file. However, it would have been implied that (*the construct list*) and (*the application deployment descriptor*) must be stored (*e.g., as a file*) somehow for comparing step to happen. It is further to note that Garms does not explicitly disclose that the file of (*e.g., construct list and the application deployment descriptor*) are archived. However, it is well known that archive files are used to collect multiple data files together into a single file for easier portability and storage. Thus, it would have been obvious to one of ordinary skill in the art at the time invention was

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made to use the archive file for storing (e.g. *the construct modules list and the application deployment descriptor*) of Garms due to the using archive file.

It is also to note that Garms does not explicitly disclose comparing interface of each deployable module during the comparing step. However, Spring, in an analogous art, teaches maintaining compatibility of a software core module and an interacting module such that *"in one embodiment, the minor version number is changed automatically. This embodiment uses a current data structure describing the interface for the newest version of the core module and compares the current data structure to the previous data structure describing the interface for the previous version of the core module. If the contents of both data structures are the same, the minor version number is not changed. If the contents of the two data structures differ, the minor version number is incremented by one."* – See Spring, at least col.9: 38-46, col. 10: 19-26, and col. 13: 49-63.

It would have been obvious to one ordinary skill in the art at the time invention was made to use interface comparing of Spring, in the incremental deployable module of Garms for further optimizing compatibility(e.g., version compatibility) between the construct modules list and the application deployment descriptor as taught in Spring (e.g., col. 3: 30-44).

**As to claim 2**, Garms further discloses wherein tagging a deployable software component comprises storing a name of the displayable software component in a file (e.g., *module tag name of Deployment Descriptor such as application.xml and web-logic-application.xml* – See at least col. col. 6: 19-65).

**As to claim 4**, modified Garms with Spring discloses further comprising:

if the first descriptor file and second descriptor file compare for the first deployable software component (*e.g., each deployable module of the construct module list (input file) was not found in the application deployment descriptor (output file), add (tag) each module in the modules to deploy list to the application deployment descriptors – See Garms, at least 5: 1-12 with emphasis added*), introspecting a binary class file for the first deployable software component in the input and output archive files; and

if, in response to the introspection, a signature or return type of an interface of said binary class files miscompare, tagging the first deployable software component (*see Spring, at least col. 13: 1-24*).

**As to claim 7**, modified Garms with Spring does not explicitly disclose wherein the comparing, tagging and deploying steps are performed in response to an execution of a build script invoking a selective deployer utility. However, Garms deployment descriptor to overcome manually work (*see at Garms, at least col. 3: 36-59 with emphasis added*). Thus, it would have been obvious to one ordinary skill in the art at the time invention was made to realize that scripting must have been invoked for incremental deployment all files under development of Garms to not manual (automatically implemented) implement.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garms et al. (US 7,296,255 B2 ) in view of Spring et al. (US 6,971,093 B1), and in further view of Cohen et al (US 2004/0034849 A1 made of record – hereinafter Cohen).



**As to claim 3**, modified Garms and Spring discloses tagging the first deployable software component if the first descriptor file and second descriptor file compares for the first deployable software component, (*e.g., each deployable module of the construct module list (input file) was not found in the application deployment descriptor (output file), add (tag) each module in the modules to deploy list to the application deployment descriptors – See Garms, at least 5: 1-12 with emphasis added*).

It is noted that, however, modified Garms with Spring does not explicitly disclose comparing a size of a binary class file for the first deployable software component. But, Cohen, in an analogous art, teaches “The delta file identifies the differences between binary file data A and binary file data B. In other words, applying the delta file to file data A yields file data B (or visa versa). At 204, the delta binary file is compressed. At 206, the size of the compressed delta binary file is compared to compressed binary file data B. Based on this comparison, a determination is made at 208 to determine whether the delta binary file is acceptable. This determination may simply include a comparison of the size of the compressed delta binary file as compared to the size of binary file data B which the delta binary file is intended to replace or it may include other comparisons such as restoration time. If the size of the delta binary file is smaller (*e.g., at least 25% smaller*), this means that the combination of file data A and the delta binary file will be smaller than the combination of file data A and file data B. Thus, the delta binary file is acceptable and at 210 file data A and the delta file are stored as part of the volume image because they would be

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smaller than file data A plus file data B. If the size of the delta binary file is near the size of or larger than file data B, this means that the combination of file data A and the delta binary file will be larger than the combination of file data A and file data B. Thus, the delta binary file is unacceptable and at 212 file data A and file data B are stored as part of the volume image because they would be smaller than file data A plus the delta binary file. – *See Cohen at least [0091], Fig. 2, and associated text, with emphasis added.*

It would have been obvious to one ordinary skill in the art at the time invention was made to use size comparing in binary file of Cohen, in the incremental deployable module of the modified Garms with Spring for further identifying differences of the deployable module between the construct modules list and the application deployment descriptor as taught in Cohen (*e.g.*, [0091]).

7. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garms et al. (US 7,296,255 B2) in view of Spring et al. (US 6,971,093 B1), and in further view of Kovacs et al., (US 2004/0158571 A1 of record, hereinafter – Kovacs).

**As to claims 5**, it is noted that modified Garms and Spring does not expressly disclose further comprising: opening said preselected output archive file; and if the step of opening the preselected output archive fails, tagging each deployable software component in the input archive file. However, Kovacs, in an analogous art, teaches validate deployment descriptor information (i.e. validator 302) to locate errors within deployment descriptor files (e.g., incorrect CMP field

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name, etc.) by displaying or highlighting the error message to the user. —See (Kovacs, 302, Fig. 3, and page 2, [0020] & [0021]).

It would have been obvious to one of ordinary skill in the art at the time invention was made to have been motivated to apply error validator 302 of Kovacs in deployment descriptor of Garms for assisting developers in user friendly interface (e.g., pop-up window) to identify the input errors and offer the suggesting solution to those errors as taught in Kovacs (e.g., page 2, [0021]).

**As to claims 6**, Kovacs further discloses wherein the step of tagging each deployable software component is performed in response to the stop of opening the preselected output archive throwing an exception (see Kovacs, page 2, [0020]&[0021]).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to application disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lee whose telephone number is (571) 270-1648. The examiner can normally be reached on M-F (11:00 am to 7:30 pm) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./  
Examiner, Art Unit 2192

/Tuan Q. Dam/  
Supervisory Patent Examiner, Art Unit 2192